

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LAURA PELLEGRINO AND JIM
PELLEGRINO,

Plaintiffs,

vs.

BJ'S WHOLESALE CLUB, INC. and DOE
CORPORATION, INC. d/b/a BJ'S
WHOLESALE CLUB,

Defendants.

∴ CIVIL ACTION

∴ NO.:

∴ JURY TRIAL DEMANDED

NOTICE FOR REMOVAL OF ACTION PURSUANT TO 28 U.S.C. § 1441

Defendants, BJ's Wholesale Club, Inc., i/s/h/a BJ's Wholesale Club, Inc. and Doe Corporation, Inc. d/b/a BJ's Wholesale Club, hereby submit notice to the United States District Court for the Southern District of New York for the removal of the above-entitled action to this Honorable Court and, in support thereof, respectfully represent:

1. Defendant, BJ's Wholesale Club, Inc. (the "Club"), is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business located in the Commonwealth of Massachusetts.

2. Upon information, knowledge and belief, Plaintiffs, Laura Pellegrino and Jim Pellegrino, are adult individuals and citizens and residents of the State of New York, residing in the Borough of Westchester, City of New York.

3. At all times material hereto, the Club was duly registered to do, and was doing, business in the State of New York.

4. On or about January 25, 2022, Plaintiffs commenced the above action, by filing a Summons and Complaint (collectively, the "Complaint"), true and correct copies of which are

attached hereto as **Exhibit “A.”** Plaintiff, Laura Pellegrino seeks damages against the Club for personal injuries she allegedly sustained in a slip and fall accident occurring at the Club located at 825 Pelham Parkway, Pelham Manor, New York 10803 on July 27, 2019. Plaintiffs’ Summons states that Plaintiffs reside at 272 Madison Avenue, Portchester, New York 10573 and the Complaint states that Plaintiffs reside in the County of Westchester.

5. At the time the action was filed, the Club did not have notice that the value of Plaintiffs’ claims exceeded Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

6. On or about April 1, 2022 the Club received the Complaint.

7. On April 28, 2022, the Club filed its Answer to the Complaint. A true and correct copy of the Club’s Answer is attached hereto as **Exhibit “B.”**

8. On April 28, 2022, the Club filed and served a Notice to Admit, seeking for Plaintiffs to admit or deny whether she alleges that her damages, if proven at trial, are in excess of Seventy-Five Thousand (\$75,000.00) dollars, exclusive of interest and costs. A copy of the Club’s Notice to Admit is attached hereto as **Exhibit “C.”**

9. To date, Plaintiffs have failed to respond to the Club’s Notice to Admit. As a result, by failing to respond within the twenty (20) day time period prescribed by Section 3123 of the New York Civil Practice Law and Rules (“CPLR”), all allegations contained therein are deemed admitted by operation of law. See CPLR § 3123.

10. Diversity of citizenship exists between Plaintiffs, citizens and residents of the State of New York, and the Club, a corporation organized and existing under the laws of the State of Delaware and having its principal place of business in the Commonwealth of Massachusetts.

11. Complete diversity of citizenship exists between the parties and removal is proper

pursuant to 28 U.S.C. § 1441, *et seq.*

12. 28 U.S.C. § 1446(b) reads, in pertinent part, that:

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 [diversity of citizenship] of this title more than 1 year after commencement of the action.

13. This Notice of Removal is timely under 28 U.S.C. § 1446(b) as it is filed within thirty (30) days after the Club's first notice that Plaintiffs' claimed damages, if proven, are valued in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs. Moreover, this Notice of Removal is made within one (1) year after the filing of the Complaint on January 25, 2022.

WHEREFORE, the above action now pending against Defendants, BJ's Wholesale Club, Inc., i/s/h/a BJ's Wholesale Club, Inc. and Doe Corporation, Inc. d/b/a BJ's Wholesale Club, in the Supreme Court State of New York, Westchester County, is removed therefrom to this Honorable Court.

Dated: New York, New York
June 8, 2022

Respectfully submitted,

CHARTWELL LAW

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